

**§ 740.18 Agricultural commodities (AGR).**

(a) *Eligibility requirements.* License Exception AGR permits the export of agricultural commodities to Cuba, as well as the reexport of U.S. origin agricultural commodities to Cuba, provided your transaction meets *all* of the following criteria:

(1) The commodity meets the definition of “agricultural commodities” in part 772 of the EAR;

(2) The commodity is EAR99. You must have an official commodity classification of EAR99 from BIS for fertilizers, western red cedar and live horses before you submit a notification under this license exception. See § 748.3 of the EAR for information on how to submit a commodity classification request;

(3) The export or reexport is made pursuant to a written contract, except for donations and commercial samples which are not subject to this contract requirement;

(4) The export or reexport is made within 12 months of the signing of the contract or within 12 months of notification that no objections were raised (if no contract is required). In the case of multiple partial shipments, all such shipments must be made within the 12 months of the signing of the contract or within 12 months of notification that no objections were raised (if no contract is required); and

(5) You notify BIS prior to exporting or reexporting according to the procedures set forth in paragraph (c) of this section. If you intend to engage in multiple shipments during the one-year period after the signing of the contract, you need only notify BIS prior to the first shipment.

(b) *Restrictions.* (1) No export or reexport to any individual or entity designated as a Specially Designated Terrorist or Foreign Terrorist Organization may be made under License Exception AGR (see part 744 of the EAR).

(2) No export or reexport to or for use in biological, chemical, nuclear warfare or missile proliferation activities may be made under License Exception AGR (see part 744 of the EAR).

(3) No U.S.-owned or controlled foreign firm may export from abroad to Cuba a foreign produced agricultural

commodity containing more than 10% U.S.-origin content. Such U.S.-owned or controlled foreign firms require a specific license from BIS as well as the Department of the Treasury’s Office of Foreign Assets Control (OFAC). Transactions not subject to the EAR (under 10% U.S.-origin content) require a license from OFAC.

(c) *Prior notification.* (1) *General requirement.* You must notify BIS prior to any export or reexport (or prior to the first of multiple shipments) under License Exception AGR.

(2) *Procedures.* You must provide prior notification of exports and reexports under License Exception AGR by submitting a completed Multipurpose Application Form (BIS-748P) or its electronic equivalent. The following blocks must be completed, as appropriate, on the Multipurpose Application Form: Blocks 1, 2, 3, 4, 5 (by marking box 5 “Other”), 14, 16, 17, 18, 19, 21, 22 (a), (e), (f), (g), (h), (i), (j), 23, and 25 according to the instructions described in Supplement No. 1 to part 748 of the EAR. If your commodity is fertilizer, western red cedar or live horses, you must confirm that BIS has previously classified your commodity as EAR99 by placing the Commodity Classification Automatic Tracking System (CCATS) number in block 22(d). BIS will not initiate the registration of an AGR notification unless all requested information on the Multipurpose Application form is complete.

(3) *Action by BIS.* Within two business days of the registration of the AGR notification, BIS will refer the notification for interagency review, or if necessary return the notification without action (e.g., if the information provided is incomplete). Registration is defined as the point at which the notification is entered into BIS’s electronic system.

(4) *Review by other departments or agencies.* The Departments of Defense, State, and other agencies, as appropriate, may review the AGR notification. BIS must receive department or agency objections within nine business days of the referral. Unlike the provisions described in § 750.4(b) of the EAR, there are no provisions for stopping the processing time of the AGR notification. If, within 11 business days after

the date of registration, any reviewing agency provides a written objection that the recipient may promote international terrorism or the transaction raises nonproliferation concerns, you may not use License Exception AGR. In such cases, BIS will notify you that a license is required for the export or reexport. BIS will then process the AGR notification as a license application in accordance with the provisions described in §750.4 of the EAR, and the licensing policies set forth in the EAR. At this time, BIS may request additional information. When BIS confirms that no agency has raised an objection within eleven business days (as described in paragraph (c)(5) of this section), you may proceed with the transaction provided that you satisfy all other requirements of License Exception AGR, including the requirement to have a written contract prior to any shipment (unless a donation or commercial sample). (Note that the fact that you have been advised that no agency has objected to the transaction does not exempt you from other licensing requirements under the EAR, such as those based on knowledge of a prohibited end-use or end-user as referenced in general prohibition five (part 736 of the EAR) and set forth in part 744 of the EAR.)

(5) *Status of pending AGR notification requests.* You must contact BIS's System for Tracking Export License Applications ("STELA") at (202) 482-2752 for status of your pending AGR notification. (See §750.5 of the EAR for procedures to access information on STELA.) STELA will provide the date of registration of the AGR notification. If no department or agency objection is raised within 11 business days, STELA will, on the twelfth business day following the date of registration, provide you with confirmation of that fact. You may not proceed with your shipment unless you confirm with STELA that no objection has been raised. BIS will subsequently issue written confirmation to you. If an objection is raised, STELA will indicate that a license is required. The AGR notification will then be processed as a license application. In addition, BIS may provide notice of an objection by telephone, fax, courier service, or other means.

(d) *Donations.* (1) Donations of agricultural commodities are eligible for export and reexport to Cuba under License Exception AGR, provided the transaction meets the requirements and procedures of this license exception (except the written contract requirement).

(2) Donations of food items to non-governmental organizations (NGOs) and individuals in Cuba may also be eligible for License Exception GFT. See §740.12 for eligibility requirements of gift parcels and humanitarian donations under License Exception GFT.

[66 FR 36681, July 12, 2001]

SUPPLEMENT NO. 1 TO PART 740—  
COUNTRY GROUPS

COUNTRY GROUP A

Country		Missile tech- nology control regime	Aus- tralia group	Nu- clear sup- pliers group
	[A:1]	[A:2]	[A:3]	[A:4]
Argentina .....		X	X	X
Australia .....	X	X	X	X
Austria <sup>1</sup> .....		X	X	X
Belarus .....				X
Belgium .....	X	X	X	X
Brazil .....		X		X
Bulgaria .....			X	X
Canada .....	X	X	X	X
Cyprus .....			X	X
Czech Republic .....		X	X	X
Denmark .....	X	X	X	X
Estonia .....			X	
Finland <sup>1</sup> .....		X	X	X
France .....	X	X	X	X
Germany .....	X	X	X	X
Greece .....	X	X	X	X
Hong Kong <sup>1</sup> .....				
Hungary .....		X	X	X
Iceland .....		X	X	
Ireland <sup>1</sup> .....		X	X	X
Italy .....	X	X	X	X
Japan .....	X	X	X	X
Kazakhstan .....				X
Korea, South <sup>1</sup> .....		X	X	X
Latvia .....			X	X
Lithuania .....			X	
Luxembourg .....	X	X	X	X
Malta .....			X	
Netherlands .....	X	X	X	X
New Zealand <sup>1</sup> .....		X	X	X
Norway .....	X	X	X	X
Poland .....		X	X	X
Portugal .....	X	X	X	X
Romania .....			X	X
Russia .....		X		X
Slovakia .....			X	X
Slovenia .....			X	X
South Africa .....		X		X
Spain .....	X	X	X	X
Sweden <sup>1</sup> .....		X	X	X
Switzerland <sup>1</sup> .....		X	X	X

COUNTRY GROUP A—Continued

Country		Missile tech- nology control regime	Aus- tralia group	Nu- clear sup- pliers group
	[A:1]	[A:2]	[A:3]	[A:4]
Turkey .....	X	X	X	X
Ukraine .....		X		X
United Kingdom .....	X	X	X	X
United States .....	X	X	X	X

<sup>1</sup> Cooperating Countries.

# Bureau of Industry and Security, Commerce

Pt. 740, Supp. 1

## COUNTRY GROUP B—COUNTRIES

Afghanistan	Greece	Palau
Algeria	Grenada	Panama
Andorra	Guatemala	Papua New Guinea
Angola	Guinea	Paraguay
Antigua and Barbuda	Guinea-Bissau	Peru
Argentina	Guyana	Philippines
Aruba	Haiti	Poland
Australia	Honduras	Portugal
Austria	Hong Kong	Qatar
The Bahamas	Hungary	Rwanda
Bahrain	Iceland	Saint Kitts & Nevis
Bangladesh	India	Saint Lucia
Barbados	Indonesia	Saint Vincent and the Grenadines
Belgium	Ireland	Samoa
Belize	Israel	San Marino
Benin	Italy	Sao Tome & Principe
Bhutan	Jamaica	Saudi Arabia
Bolivia	Japan	Senegal
Bosnia & Herzegovina	Jordan	Serbia and Montenegro
Botswana	Kenya	Seychelles
Brazil	Kiribati	Sierra Leone
Brunei	Korea, South	Singapore
Burkina Faso	Kuwait	Slovakia
Burma	Lebanon	Slovenia
Burundi	Lesotho	Solomon Islands
Cameroon	Liberia	Somalia
Canada	Liechtenstein	South Africa
Cape Verde	Luxembourg	Spain
Central African Republic	Macedonia, The Former	Sri Lanka
Chad	Yugoslav Republic of	Surinam
Chile	Madagascar	Swaziland
Colombia	Malawi	Sweden
Comoros	Malaysia	Switzerland
Congo (Democratic Republic of the)	Maldives	Taiwan
Congo (Republic of the)	Mali	Tanzania
Costa Rica	Malta	Thailand
Cote d'Ivoire	Marshall Islands	Togo
Croatia	Mauritania	Tonga
Cyprus	Mauritius	Trinidad & Tobago
Czech Republic	Mexico	Tunisia
Denmark	Micronesia, Federated	Turkey
Djibouti	States of	Tuvalu
Dominica	Monaco	Uganda
Dominican Republic	Morocco	United Arab Emirates
East Timor	Mozambique	United Kingdom
Ecuador	Namibia	United States
Egypt	Nauru	Uruguay
El Salvador	Nepal	Vanuatu
Equatorial Guinea	Netherlands Antilles	Vatican City
Eritrea	Netherlands	Venezuela
Ethiopia	New Zealand	Western Sahara
Fiji	Nicaragua	Yemen
Finland	Niger	Zambia
France	Nigeria	Zimbabwe
Gabon	Norway	
Gambia, The	Oman	
Germany	Pakistan	
Ghana		

## COUNTRY GROUP C [RESERVED]

### • COUNTRY GROUP D

Country	[D: 1] Na- tional Secu- rity	[D: 2] Nu- clear	[D: 3] Chem- ical & Biologi- cal	[D: 4] Missile Tech- nology
Afghanistan .....			X	
Albania .....	X			
Algeria.				
Andorra.				

### • COUNTRY GROUP D—Continued

Country	[D: 1] Na- tional Secu- rity	[D: 2] Nu- clear	[D: 3] Chem- ical & Biologi- cal	[D: 4] Missile Tech- nology
Armenia .....	X		X	
Azerbaijan .....	X		X	
Bahrain .....			X	X
Belarus .....	X		X	
Bulgaria .....	X		.....	
Burma .....			X	

## • COUNTRY GROUP D—Continued

Country	[D: 1] National Security	[D: 2] Nu- clear	[D: 3] Chem- ical & Biologi- cal	[D: 4] Missile Tech- nology
Cambodia .....	X			
China (PRC) .....	X		X	X
Comoros .....				
Cuba .....		X	X	
Djibouti .....				
Egypt .....			X	X
Estonia .....	X			
Georgia .....	X		X	
India .....		X	X	X
Iran .....		X	X	X
Iraq .....	X	X	X	X
Israel .....		X	X	X
Jordan .....			X	X
Kazakhstan .....	X		X	
Korea, North .....		X	X	X
Kuwait .....			X	X
Kyrgyzstan .....	X		X	
Laos .....	X			
Latvia .....	X			
Lebanon .....			X	X
Libya .....		X	X	X
Lithuania .....	X			
Macao .....	X		X	X
Micronesia, Federated States of .....				
Moldova .....	X		X	
Mongolia .....	X		X	
Oman .....			X	X
Pakistan .....		X	X	X
Qatar .....			X	X
Romania .....	X			
Russia .....	X		X	
Saudi Arabia .....			X	X
Syria .....			X	X
Taiwan .....			X	
Tajikistan .....	X		X	
Turkmenistan .....	X		X	
Ukraine .....	X		X	
United Arab Emirates .....			X	X
Uzbekistan .....	X		X	
Vanuatu .....				
Vietnam .....	X		X	
Yemen .....			X	X

COUNTRY GROUP E <sup>1</sup>

Country	[E:1] Terrorist supporting countries <sup>2</sup>	[E:2] Unilateral embargo
Cuba .....	X	X
Iran .....	X	
Korea, North .....	X	
Libya .....	X	
Sudan .....	X	
Syria .....	X	

<sup>1</sup> In addition to the controls maintained by the Bureau of Industry and Security pursuant to the EAR, note that the Department of the Treasury administers:

(a) A comprehensive embargo against Cuba, Iran, and Sudan; and

(b) An embargo against certain persons, e.g., Specially Designated Terrorists (SDT), Foreign Terrorist Organizations (FTO), Specially Designated Global Terrorists (SDGT), and Specially Designated Narcotics Traffickers (SDNT). Please see part 744 of the EAR for controls maintained by the Bureau of Industry and Security on these and other persons.

<sup>2</sup> The President made inapplicable with respect to Iraq provisions of law that apply to countries that have supported terrorism.

[61 FR 12768, Mar. 25, 1996, as amended at 62 FR 6686, Feb. 12, 1997; 62 FR 25458, May 9, 1997; 62 FR 42048, Aug. 5, 1997; 63 FR 37769, July 14, 1998; 64 FR 28908, May 28, 1999; 65 FR 38151, June 19, 2000; 66 FR 18402, Apr. 9, 2001; 66 FR 42110, Aug. 10, 2001; 66 FR 49524, Sept. 28, 2001; 67 FR 37982, May 31, 2002; 67 FR 55598, Aug. 29, 2002; 68 FR 16146, Apr. 2, 2003; 68 FR 60289, Oct. 22, 2003; 69 FR 3005, Jan. 22, 2004; 69 FR 21056, Apr. 20, 2004; 69 FR 23628, Apr. 29, 2004; 69 FR 46075, July 30, 2004; 69 FR 64658, Nov. 8, 2004; 69 FR 77893, Dec. 29, 2004]

SUPPLEMENT NO. 2 TO PART 740—ITEMS  
THAT MAY BE DONATED TO MEET  
BASIC HUMAN NEEDS UNDER THE HU-  
MANITARIAN LICENSE EXCEPTION

## (a) Health

Equipment for the Handicapped  
Hospital Supplies and Equipment  
Laboratory Supplies and Equipment  
Medical Supplies and Devices  
Medicine-Processing Equipment  
Medicines  
Vitamins  
Water Resources Equipment  
Food  
Agricultural Materials and Machinery Suit-  
ed to Small-Scale Farming Operations  
Agricultural Research and Testing Equip-  
ment  
Fertilizers  
Fishing Equipment and Supplies Suited to  
Small-Scale Fishing Operations

## (b) Food

Insecticides  
Pesticides  
Seeds  
Small-Scale Irrigation Equipment  
Veterinary Medicines and Supplies

## (c) Clothes and Household Goods

Bedding  
Clothes  
Cooking Utensils  
Fabric  
Personal Hygiene Items  
Soap-Making Equipment  
Weaving and Sewing Equipment

## (d) Shelter

Building Materials  
Hand Tools

## (e) Education

Books  
Individual School Supplies  
School Furniture  
Special Education Supplies and Equipment  
for the Handicapped

(f) Basic Support Equipment and Supplies  
Necessary To Operate and Administer the Dona-  
tive Program

Audio-Visual Aids for Training  
Generators

## Bureau of Industry and Security, Commerce

## § 742.1

Office Supplies and Equipment

### SUPPLEMENT NO. 3 TO PART 740—COUNTRIES ELIGIBLE FOR THE PROVISIONS OF § 740.17(A)

Austria.  
Australia.  
Belgium.  
Cyprus.  
Czech Republic.  
Estonia.  
Denmark.  
Finland.  
France.  
Germany.  
Greece.  
Hungary.  
Ireland.  
Italy.  
Japan.  
Latvia.  
Lithuania.  
Luxembourg.  
Malta.  
Netherlands.  
New Zealand.  
Norway.  
Poland.  
Portugal.  
Slovakia.  
Slovenia.  
Spain.  
Sweden.  
Switzerland.  
United Kingdom.

[69 FR 71363, Dec. 9, 2004]

### PART 742—CONTROL POLICY—CCL BASED CONTROLS

Sec.

- 742.1 Introduction.
- 742.2 Proliferation of chemical and biological weapons.
- 742.3 Nuclear nonproliferation.
- 742.4 National security.
- 742.5 Missile technology.
- 742.6 Regional stability.
- 742.7 Crime control.
- 742.8 Anti-terrorism: Iran.
- 742.9 Anti-terrorism: Syria.
- 742.10 Anti-terrorism: Sudan.
- 742.11 Specially designed implements of torture.
- 742.12 High performance computers.
- 742.13 Communications intercepting devices.
- 742.14 Significant items: hot section technology for the development, production or overhaul of commercial aircraft engines, components, and systems.
- 742.15 Encryption items.
- 742.16 [Reserved]
- 742.17 Exports of firearms to OAS member countries.

742.18 Chemical Weapons Convention (CWC or Convention).

742.19 Anti-terrorism: North Korea.

742.20 Anti-terrorism: Libya.

SUPPLEMENT NO. 1 TO PART 742—NON-PROLIFERATION OF CHEMICAL AND BIOLOGICAL WEAPONS

SUPPLEMENT NO. 2 TO PART 742—ANTI-TERRORISM CONTROLS: IRAN, LIBYA, NORTH KOREA, SYRIA AND SUDAN CONTRACT SANCTITY DATES AND RELATED POLICIES

SUPPLEMENT NO. 3 TO PART 742—HIGH PERFORMANCE COMPUTERS; SAFEGUARD CONDITIONS AND RELATED INFORMATION

SUPPLEMENT NO. 4 TO PART 742—KEY ESCROW OR KEY RECOVERY PRODUCTS CRITERIA

SUPPLEMENT NO. 5 TO PART 742—CHECKLIST ON ENCRYPTION AND OTHER “INFORMATION SECURITY” FUNCTIONS

SUPPLEMENT NO. 6 TO PART 742— GUIDELINES FOR SUBMITTING REVIEW REQUESTS FOR ENCRYPTION ITEMS

SUPPLEMENT NO. 7 TO PART 742 [RESERVED]

AUTHORITY: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 18 U.S.C. 2510 *et seq.*; 22 U.S.C. 3201 *et seq.*; 42 U.S.C. 2139a; Sec. 901-911, Pub. L. 106-387; Sec. 221, Pub. L. 107-56; Sec. 1503, Pub.L. 108-11,117 Stat. 559; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Presidential Determination 2003-23 of May 7, 2003, 68 FR 26459, May 16, 2003; Notice of August 6, 2004, 69 FR 48763 (August 10, 2004); Notice of November 4, 2004, 69 FR 64637 (November 8, 2004).

SOURCE: 61 FR 12786, Mar. 25, 1996, unless otherwise noted.

### § 742.1 Introduction.

In this part, references to the Export Administration Regulations (EAR) are references to 15 CFR chapter VII, subchapter C.

(a) *Scope.* This part describes all the reasons for control reflected in the Country Chart in Supplement No. 1 to part 738 of the EAR. In addition, it includes licensing requirements and licensing policies for the following items that are not reflected on the Country Chart: specially designed implements of torture, high performance computers, and communications intercepting devices. In addition to describing the reasons for control and licensing requirements and policies, this part